



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

BRIAN C. STEED
Executive Director

Division of Water Rights

KENT L. JONES
State Engineer Division Director

Lefevre Barton and Tebbs Canal Company
c/o Malloy Dodds, President
PO Box 123
Panguitch, UT 84759

Re: Measuring Device Notice SEAA 2105

October 21, 2019

Mr. Dodds:

Enclosed is a formal Second Notice from the State Engineer's Office explaining that although Lefevre Barton and Tebbs Canal Company has provided a new flume and re-located the measuring device downstream of the sand gate, SEAA 2105 requires that the flume be accurate and include a stilling well.

In order to make the new flume an accurate measuring device, a staff gage must be installed. Also the stilling well must be installed. Both requirements must be met prior to diverting water next spring. The Tebbs diversion gate will be tagged accordingly until these last two improvements have been accomplished.

You are receiving this Notice because the State Engineer's records indicate you are the President of Lefevre Barton and Tebbs Canal Company, which owns the water rights taken in the Tebbs Canal.

Should you wish to discuss or have any questions about this Notice, please feel free to call me at (801) 538-7431.

Regards,

Sue Odekirk, P.E.
Distribution Engineer



EC:

Kirk Forbush, Southern Regional Engineer

Russel Christensen, River Commissioner

Chris Fullmer, Deputy Commissioner



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

BRIAN C. STEED
Executive Director

Division of Water Rights

KENT L. JONES
State Engineer Division Director

BEFORE THE DIVISION OF WATER RIGHTS

| | |
|---|---|
| <p>In The Matter Of:</p> <p>Lefevre Barton and Tebbs Canal Company</p> <p>RESPONDENT</p> | <p>MEASURING DEVICE</p> <p>SECOND NOTICE</p> <p>SEAA 2105</p> <p>DISTRIBUTION ACCOUNT: 102226 WATER RIGHTS: 61-2017, 61-2039</p> |
|---|---|

I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4 and in accordance with UTAH ADMIN. CODE R. 655-15.

U.C.A. § 73-5-4 states in part:

- 1) *To assist the State Engineer or water commissioner in the regulation, distribution and measurement of water, a person using water in this state ...shall construct or install and maintain ...a measuring device at :*
 - a. *Each location where water is diverted from a source; and*
 - b. *Any other location required by the state engineer*
- 2) *A person using water in this state shall make the ...measuring device accesible to the state engineer or water commissioner.*
- 3) *The state engineer shall approve the design of :*
 - a. *The measuring device*
- ...
- 6) *If a water user refuses or neglects to construct or install the ...measuring device after 30 days' notice to do so by the state engineer, the state engineer may :*
 - a. *Forbid the use of water until the user complies with the state engineer's requirement; and*
 - b. *Commence enforcement proceedings authorized by Section 73-2-25.*



October 18, 2019

Subject: Re: Lefevre Barton and Tebbs Canal Company Measuring Device Second Notice

II. STATEMENT OF FACTS

1. The Respondent diverts water from the South Fork of the Sevier River under the above-listed water rights into the Tebbs Canal at the following location: South 150 feet and East 1,300 feet from the NW corner Section 9, Township 34 South, Range 5 West, Salt Lake Baseline & Meridian.
2. The Parshall flume at the head of the Tebbs Canal didn't measure water diverted into the canal accurately.
 - a. The Parshall flume was submerged and therefore did not operate properly.
 - b. The flume was located upstream of the sand gate. It measured water diverted into the canal and water returned to the river.
3. November 21, 2017 the State Engineer issued SEAA 2105 requiring:

"By May 1, 2018 the Respondent shall install an accurate measuring device, complete with a stilling well, near the head of the canal but downstream of the sand gate. Prior to commencing the required work and during the construction the Respondent shall consult with the Water Commissioner or Distribution Engineer to assure that the planned installation will satisfy the requirements of this Notice.

Water should not be diverted after May 1, 2018 unless the above actions have been completed."

4. Respondent has installed a new ramp flume downstream of the sand gate.

III. ACTIONS REQUIRED

1. **By May 1, 2020** Respondent shall properly install a staff gage and a stilling well on the ramp flume. Prior to commencing the required work and during the construction the Respondent shall consult with the Water Commissioner or Distribution Engineer to assure that the planned installation will satisfy the requirements of this Notice.

Water should not be diverted after May 1, 2020 unless the above actions have been completed.

The orderly distribution of water from the Sevier River in accordance with existing water rights is a concern to Division as well as to the Respondent. To that end we appreciate and

Page 3

October 18, 2019

Subject: Re: Lefevre Barton and Tebbs Canal Company Measuring Device Second Notice

thank you for your cooperation. If you have any questions concerning this Notice please contact Sue Odekirk, Distribution Engineer at (801) 538-7431 or Russel Christensen, River Commissioner at (435) 979-2087.

Respectfully,

A handwritten signature in black ink that reads "Sue Odekirk". The signature is written in a cursive, flowing style.

Sue Odekirk, P.E.

Sevier River Distribution Engineer

Page 4

October 18, 2019

Subject: Re: Lefevre Barton and Tebbs Canal Company Measuring Device Second Notice

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 21st day of October, 2019, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

Lefevre Barton and Tebbs Canal Company
c/o Malloy Dodds, President
PO Box 123
Panguitch, UT 84759

Kelly Horne

Kelly Horne
Division of Water Rights
Field Services Secretary

7002 0510 0002 2228 3747

| U.S. Postal Service | |
|---|----|
| CERTIFIED MAIL RECEIPT | |
| (Domestic Mail Only, No Insurance Coverage Provided) | |
| Postage | \$ |
| Certified Fee | |
| Return Receipt Fee (Endorsement Required) | |
| Restricted Delivery Fee (Endorsement Required) | |
| Total Postage & Fees | \$ |
| Postmark Here 10/21/19 | |
| Sent To Lefevre Barton & Tebbs Canal | |
| Street, Apt. No. or PO Box No. PO Box 123 | |
| City, State, ZIP+4 Panguitch 84759 | |
| PS Form 3800, January 2001 See Reverse for Instructions | |

EC: Kirk Forbush, Russel Christensen, Chris Fullmer